

Chairman Welborn and Members of the Committee:

My name is Jerry Davis. I represent the Montana Bowhunters Association in this testimony.

The Montana Bowhunters Association's mission is to preserve and promote bowhunting opportunities. We are aware of the interests of hunters with disabilities who wish to participate in bowhunting.

But crossbows have more attributes common to firearms rather than bows, including a stock, trigger and scope. They have an effective range of over 100 yards; double that of compound or traditional bows. The introduction of crossbows into the regular archery season alters the close-range nature of bowhunting. (see attached)

To that end, we partnered with FWP a decade ago to develop the Permit To Modify Archery Equipment (PTMAE). PTMAE was developed to accommodate hunters with disabilities and was based on the recommendations of the Crossbow Archery Committee in 2000. In addition, we have dedicated \$500 per year to assist with the modification of bows to suit the specific needs of those individuals.

In the years since the PTMAE was introduced, it has weathered numerous challenges regarding compliance with the Americans with Disabilities Act. A complaint was filed in 2003 with the Department of the Interior alleging that Montana FWP discriminated against hunters with disabilities by denying their requests to use a crossbow during the archery seasons (attached).

In the reply received from the Department of the Interior, the ruling stated there was no evidence that Montana's restrictions on the use of the crossbow during archery season discriminated against persons on the basis of disability, particularly since such use is prohibited by regulations and applies equally to members of the public. The report further declared that Montana does not deny qualified disabled persons an effective opportunity to participate in Montana's hunting program, as it is legal to hunt with crossbows in certain restricted areas and during the general season. Finally, the report concluded that qualified disabled persons are eligible to secure a special permit through PTMAE to use modified archery tackle suitable to their needs. The Department of the Interior's ruling recognizes a State's right to establish equal

hunting opportunities and regulations for all its citizens and it has done so in both the Cuffaro and Waligura cases (attached).

We have several concerns with HB 407. First this bill is another attempt to bypass the authority delegated to the FWP Commission to set the provisions of legal archery equipment. As noted in Montana Hunting Regulations the Commission has developed criteria defining legal archery equipment. Those wishing to change those regulations should submit a tentative regulation change to the Commission. There have been no tentative regulations proposed to the Commission to allow the use of crossbows for disabled hunters.

Another concern is HB 407 will result in the abuse of disability certifications by those who wish to use crossbows during archery seasons. Currently, the definition of "disabled person" in statute is quite broad (refer to 87-2-803 text). Many individuals could request and receive the allowance to use a crossbow, even though they may be capable of drawing a bow with minimal modification. An example of this unintended consequence is seen in the abuses involved in the Permit To Hunt from a Vehicle. Since its inception, over 11,000 individuals have taken advantage of this privilege, many of whom did not need it. SB 101 has been brought forward this session to narrow the definition of disability for those who wish to hunt from a vehicle but it does not narrow the definition of a disability. If a similar effect is seen with a crossbow inclusion, we could see 11,000 individuals using crossbows during archery seasons, significantly altering the nature of our close-range sport.

Related to this concern is that crossbows will result in fragmented and shortened archery-only seasons. This has been demonstrated in many of the states which allow crossbow use by individuals with disabilities, youth, and older hunters. Eventually, the crossbow is seen as an entry-level weapon to archery seasons and special seasons are carved out for their use. Hunters who wish to use crossbows can already do so in twenty-three weapons restrictions areas distributed around the state and during the general season (see attached list and map).

The PTMAE has ensured that multiple modifications can be made to archery equipment. The MBA has offered technical expertise and funding to any hunter who requires modification to their bow. Through these accommodations, hunters with disabilities can equally participate in archery-only seasons. The MBA and FWP stand ready to assist hunters with disabilities in modifying their equipment to suit their needs. The MBA wishes to work collaboratively with hunters to find customized solutions to enable their participation in bowhunting. Our mission is to preserve and promote bowhunting, and we feel the PTMAE is the best vehicle to accomplish that goal. We urge you to vote "do not pass" to HB 407.

Thank you,

Jerry Davis

**Crossbow Tests****March 2005**

Great Lakes Crossbow Co.

**DURANGO**

The reason for conducting these tests was to establish a basis for performance measurements between modern crossbows and other hunting weapons, most specifically, modern compound bows. Given the movement to redefine crossbows as conventional archery tackle so as to allow their use during bowhunting-only seasons, it seemed appropriate to provide a means for comparison. Of particular interest was the accuracy potential of a rested crossbow at extended ranges. Crossbow manufacturers list velocity and pull weights, but I am not aware of any published accuracy expectations.

In early March 2005 I obtained a Great Lakes Crossbow Co. Durango model crossbow in slightly used condition. While it does not have as high peak weight (165 pounds) as many of the "high performance" crossbows that peak at 175 pounds to 200 pounds, it does have a 17-inch power stroke, and overall, its velocity and kinetic energy ratings compare favorably with other modern crossbows.

This crossbow has an overall weight of 8 ¼ lbs., 34-inch length without the stirrup, and very heavy two-piece limbs with an axle-to-axle length of 27 ¼ inches. It uses round cams, approximately 2 9/16 inches in diameter. It comes fitted with a 4 power, parallax adjustable scope with hand adjustable windage and elevation turrets. The trigger has a pull weight of over 7 pounds, with considerable creep and overtravel. While the crossbow does have a crossbolt safety, it can't be engaged until after the crossbow is cocked and it is in an awkward location to operate safely. Five bolts were also provided. They were fitted with 100 grain screw-in target points and 5" vanes at a slight straight offset. The shafts are 2219 Easton aluminum, cut to 22 1/8 inches before inserts and had an average weight, with points, of 476 grains.

Although as the shooter, I have no previous experience shooting crossbows, I do have considerable experience in competitive rifle shooting.



The first test took place indoors on March 10<sup>th</sup>. A total of 4 bolts were shot before the cocking mechanism broke under pressure, causing minor damage and some trepidation on the part of the operator. The crossbow was rested across a stool with all 4 shots taken at 22 yards. The initial shot was used to adjust the sights and find a hard spot on the bales where the bolts wouldn't pass completely through them, and then three shots were taken at the same point of aim. The first was taken then

pulled. The second entered within ½ inch of the first bolt hole and then a third was shot, which hit right next to the second and almost exactly in the hole that the first was pulled from. As mentioned, the cocking winch broke at that point, but a three shot group of under ¾ inches was a pretty impressive

start.

After the winch was repaired I was back at the range on March 12<sup>th</sup> to shoot at longer distances. The crossbow was shot from a shooting bench

with sandbags. I had shimmed the back of the scope .050 because I anticipated that the scope would run out of elevation adjustment before it could be held dead-on at the longer ranges I hoped to shoot it at. It turned out not to be necessary because even at 90 yards, the bolt sailed over the whole bale assembly. It was recovered but was bent badly due to impact with a tree. The shims came out. After four shots at 40 and 60 yards to get "on" the bales I moved to 90 yards and impacted below my aiming point. I then adjusted the scope to the bulls-eye and shot a four shot group with the four straight bolts I had remaining. The aiming point was a scrap of white paper. The first shot hit about 1 inch left of the paper, the second hit it, the third hit about 4 inches right and the final one, less than an inch right. **The final 90-yard group was a horizontal string less than 5 inches across.** Penetration was approximately 8 inches into frozen and practically new excelsior bales.

Even though these results surprised me, I felt this crossbow was actually capable of better accuracy. Conditions were not good with variable winds to at least 10 mph. Also, I wanted to straighten the bent bolt so I could shoot a 5 shot group.

In checking the bolts when I got home, I found that all but one were bent at least .005. I don't know if they came that way or it was the result of impact and/or removal from the frozen bales, but I straightened them the best I could. Unfortunately, the bolt that hit the tree couldn't be straightened sufficiently.

I returned to the range on March 25<sup>th</sup>. Conditions were better with light winds, temperature in the low 40's and clear skies. With the aid of a laser rangefinder, I set my bench up (across the parking lot) exactly 100 yards from the farthest bale. I used a rifle bipod instead of sandbags to rest the stock and had adjusted the scope in the rings to avoid canting.



I took two shots to get me close to the bulls-eye, then put up a new target and shot the four almost-straight bolts. The four shot group measured just slightly less than 4 inches across. Because I prefer to shoot 5 shot groups for rifle testing, I pulled the bolts, returned to the bench and shot a fifth bolt. It hit within the holes from the previous four shots, so **the 5 shot group at 100 yards measured less than 4 inches across, with 4 of the 5 shots hitting within a 3-inch circle.**

With straight carbon bolts and perhaps some fine tuning of equipment, I don't doubt that this could be improved upon, however, this level of long range accuracy exceeded my wildest expectations - and concerns.

I have never fired a crossbow before in my life. And now within 20 shots can group 5 bolts into 4 inches at 100 yards with a borrowed crossbow. I can say that I have owned some deer rifles in my life that haven't grouped that well at 100 yards. However, because of a much greater trajectory curve for the bolt and longer time of flight, the rifle would still be superior unless wind was light and the exact distance was known. Which brings up an interesting point. Ten years ago this very same crossbow wouldn't have been nearly as effective as a long range weapon because range estimation at that time was far less precise. However, with the development of technology completely unrelated to crossbows - laser rangefinders - this crossbow in conjunction with one becomes a bona fide 100-yard killing machine. It would only be a matter of laser ranging the target, dialing the elevation to that exact

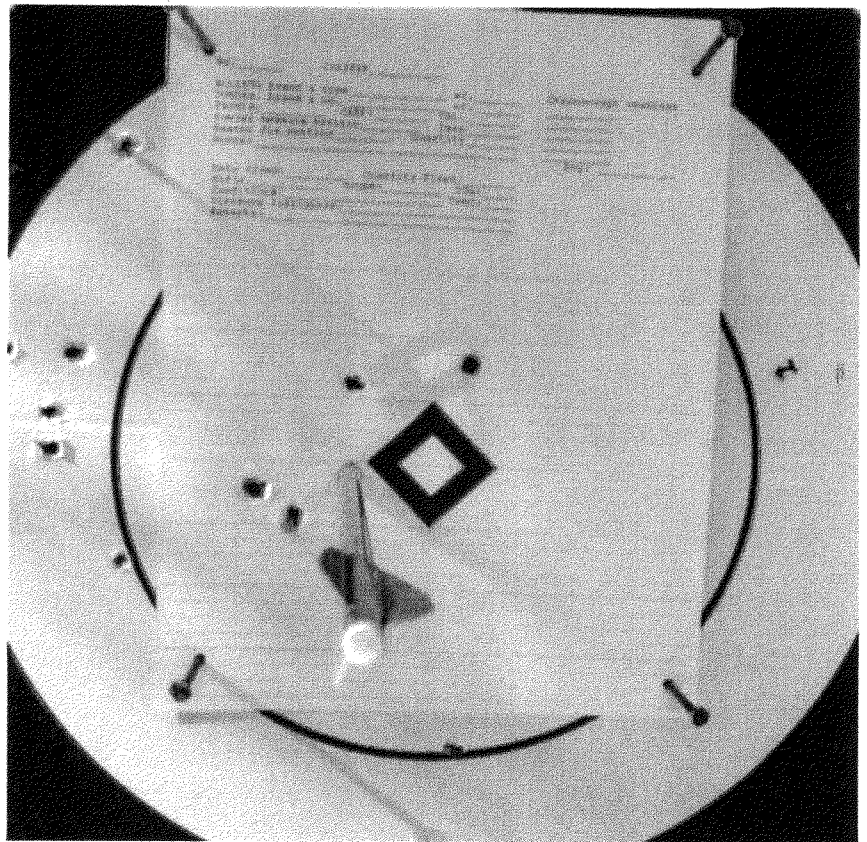
distance setting on a scope like the one that came with this crossbow, and then putting the crosshairs on the heart and pulling the trigger. The whole process takes just a few seconds. Pre-ranging distances and using a mil-dot scope would eliminate even that short time.

This is only one crossbow. I don't doubt statements by others that have shot crossbows, particularly older models, that say they are not accurate at longer distances. However, this one is. And if this and other newer models have this potential, then everyone that can hunt with one has essentially the same potential; because accuracy is almost completely a function of mechanical action with no significant skill required.

One consideration that I can't comment on is potential variations in accuracy using broadheads. I suspect, but can't confirm until our sand bunkers thaw out, that given the substantially heavier projectile fired from a crossbow, especially with mechanical broadheads, projectile flight can be controlled.

I will leave it to those that read this to form their own opinions on the effect this type of weapon would have on a bow-only season, but there is no question that with widespread use, the effect would be significant, not only on the bow-only season itself, but also upon the harvest dynamics of all seasons for the species involved.

Mike Brust,  
Wausau, WI



First 100 yard group 3.9 inch spread











Dept of Interior Seal

United States Department of the Interior  
OFFICE OF THE SECRETARY  
Washington, D.C. 20240

IN REPLY REFER TO:  
OCR/FAP 401-04-02

Chad Waligura  
1204 Laurel Lane  
El Campo, Texas 77437

Dear Mr. Waligura:

On October 7, 2003, you filed a complaint wherein you alleged that the Montana Department of Fish, Wildlife and Parks (hereinafter, "MDFWP") discriminated against you on the basis of Disability when it denied your request to use a crossbow during archery season. Specifically, you Requested an accommodation to use a crossbow due to your alleged disability, quadriplegia. We Accepted as fact that you are a person with a disability. Since the MDFWP receives Federal financial assistance from the Department of Interior (hereinafter, "Department"), we reviewed your Complaint under section 504 of the Rehabilitation of 1973, (hereinafter, "Act") and Title II of the Americans with Disabilities Act (hereinafter, "ADA").<sup>1</sup> The sole issue is whether the MDFWP violated the Act or the ADA when it denied your request for an accommodation to use a crossbow.

Based on the relevant information provided, we have determined that the MDFWP did not discriminate under the Act or ADA when it denied your request to use a crossbow. Since the MDFWP did not violate these statutes, there are no compliance issues that require enforcement. Accordingly, the Department is dismissing your complaint. The Department's analysis is provided below.

Analysis

In Montana, the State's fish and game regulations provide that crossbows may be used during The general rifle season and in most weapons restricted areas during the general rifle season. However, the use of crossbows is prohibited during the archery seasons.<sup>2</sup> This restriction

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<sup>1</sup> The Act prohibits discrimination on the basis of disability in programs or activities receiving Federal financial Assistance. The ADA prohibits discrimination on the basis of disability in programs or activities conducted by Public entities whether or not they receive Federal financial assistance. As a recipient of Federal financial Assistance and as public entity, the MDFWP's operations are covered by both statutes.

<sup>2</sup> "Methods and Means of Hunting," 2005 Montana Hunting Regulations, Deer-Elk-Antelope.

Applies equally to members of the public. In Montana, any person including people with disabilities may hunt with a crossbow during the general rifle season and in most weapons restricted areas. But during the State's archery season and in "ArchEquip Only" areas, it is illegal to hunt with a crossbow.

Hunting with a crossbow in the State is not prohibited entirely; the weapon's use is merely restricted. During the general hunting season and in most restricted areas any person, with an appropriate permit, may hunt with a crossbow. Additionally, in Montana, qualified disabled persons are eligible to secure a special permit from the MDFWP that allows them to use modified archery tackle. Since it is illegal to use the crossbow in the State's archery season, you are not authorized to use a crossbow as requested in your complaint.

In the instant case, there is no evidence that Montana's restrictions on the use of the crossbow during archery discriminated against persons on the basis of disability, particularly since such use is prohibited by regulations and applies equally to members of the public. Furthermore, there is no evidence that Montana's restrictions on the use of the crossbow deny qualified disabled persons an effective opportunity to participate in Montana's hunting program. In Montana, it is illegal to hunt with crossbows in certain restricted areas and during archery season. Neither the Act nor the ADA requires the State of Montana to eliminate restrictions on the use of the crossbow as special accommodation for people with disabilities.

The Department recognizes that States have taken different positions on providing the crossbow as an accommodation for bowhunters with disabilities. However, the Department cannot mandate that a recipient or State agency provide a crossbow as an accommodation where the crossbow is prohibited. Accordingly, since there are no compliance issues that require the Department's review, we consider your complaint to be closed. The Department will take no further action to process your request for an accommodation to use a crossbow in Montana's hunting program. If you disagree with the Department's decision, you may file a Civil action in the appropriate U.S. District Court having jurisdiction over this matter. If you have any questions or desire any additional information regarding the nondiscrimination Requirements of section 504 and Title II of the ADA, please do not hesitate to contact Melvin C. Fowler, Civil Rights Staff Assistant, of this Office at (202) 208-3455.

Sincerely,

s/s

Sharon D. Eller  
Director  
Office for Civil Rights

cc: Director MDFWP  
Chief, Division of Federal Assistance, FWS



United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

RECEIVED

SEP 2 2004

FISH, WILDLIFE & PARKS  
DIRECTOR'S OFFICE

IN REPLY REFER TO:  
EO: FAP 401-04-72

Mr. Peter L. Cuffaro  
102 Hunters Ridge Road  
Wheeling, West Virginia 26003

SEP 02 2004

Dear Mr. Cuffaro:

You filed a complaint dated October 24, 2003, wherein you alleged that the Montana Fish, Wildlife and Parks Department (hereinafter, "MFWPD") discriminated against you on the basis of disability when it denied your request to use a crossbow during archery season. Specifically, you requested an accommodation to use a crossbow due to your alleged disability. We accept as fact that you are a person with a physical disability. Since the MFWPD receives Federal financial assistance from the Department of the Interior (hereinafter, "Department"), we reviewed your complaint under section 504 of the Rehabilitation Act of 1973, as amended, (hereinafter, "Act") and Title II of the Americans with Disabilities Act (hereinafter, "ADA").<sup>1</sup> The sole issue is whether the MFWPD violated the Act or the ADA when it denied your request for an accommodation to use a crossbow.

Based on the relevant information provided, we have determined that the MFWPD did not discriminate under the Act or ADA when it denied your request to use a crossbow. Since the MFWPD did not violate these statutes, there are no compliance issues that require enforcement. Accordingly, the Department is dismissing your complaint. The Department's analysis is provided below.

Analysis

In Montana, the State's fish and game regulations provide that crossbows may be used during the general hunting season and in most weapons restricted areas during the general season. The use of crossbows is prohibited during the archery season.<sup>2</sup> This restriction applies equally to members of the public. In Montana, any person including people with disabilities may hunt with a crossbow during the general hunting season and in most weapons restricted areas. However, during the State's archery season, it is illegal to hunt with a crossbow.

<sup>1</sup> The Act prohibits discrimination on the basis of disability in programs or activities receiving Federal financial assistance. The ADA prohibits discrimination on the basis of disability in programs or activities conducted by public entities whether or not they receive Federal financial assistance. As a recipient of Federal financial assistance and as a public entity, the MFWPD's operations are covered by both statutes.

<sup>2</sup> "Methods and Means of Hunting," 2004 Montana Hunting Regulations, Deer-Elk-Antelope: 15.

✓ 10: FS  
9/10 wildlife  
Legal

Hunting with a crossbow in the State is not prohibited entirely; the weapon's use is merely restricted. During the general hunting season and in most weapons restricted areas any person, with an appropriate permit, may hunt with a crossbow. Additionally, in Montana, qualified disabled persons are eligible to secure a special permit from the MFWPD that allows them to use modified archery tackle. Since it is illegal to use the crossbow in the State's archery season, you are not authorized to use a crossbow as requested in your complaint.

In the instant case, there is no evidence that Montana's restrictions on the use of the crossbow during archery discriminate against persons on the basis of disability, particularly since such use is prohibited by regulation and applies equally to members of the public. Furthermore, there is no evidence that Montana's restrictions on the use of the crossbow deny qualified disabled persons an effective opportunity to participate in Montana's hunting program. In Montana, it is illegal to hunt with crossbows in certain restricted areas and during archery season. Neither the Act nor the ADA requires the State of Montana to eliminate restrictions on the use of the crossbow as a special accommodation for people with disabilities.

The Department recognizes that States have taken different positions on providing the crossbow as an accommodation for bowhunters with disabilities. However, the Department cannot mandate that a recipient or State agency provide a crossbow as an accommodation where the crossbow is prohibited. Accordingly, since there are no compliance issues that require the Department's review, we consider your complaint to be closed. The Department will take no further action to process your request for an accommodation to use a crossbow in Montana's hunting program.

If you disagree with the Department's decision, you may file a civil action in the appropriate U. S. District Court having jurisdiction over this matter. If you have any questions or desire any additional information regarding the nondiscrimination requirements of section 504 and Title II of the ADA, please do not hesitate to contact Melvin C. Fowler, Civil Rights Staff Assistant, of this Office at (202) 208-3455.

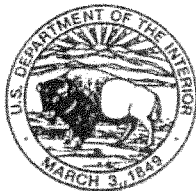
Sincerely,



Sharon D. Eller  
Director  
Office for Civil Rights

cc: Director MFWPD  
Acting Chief, Division of Federal Assistance, FWS  
FWS Civil Rights Coordinator





# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

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SEP 02 2004

FISH, WILDLIFE & PARKS  
DIRECTOR'S OFFICE

IN REPLY REFER TO:  
EO: FAP 401-04-71

Mr. Peter L. Cuffaro  
102 Hunters Ridge Road  
Wheeling, West Virginia 26003

SEP 02 2004

Dear Mr. Cuffaro:

You filed a complaint dated October 23, 2003, wherein you alleged that the Alaska Department of Fish and Game (hereinafter, "ADFG") discriminated against you on the basis of disability when it denied your request to use a crossbow during archery season in areas of the State where only bow hunting is allowed. Specifically, you requested an accommodation to use a crossbow due to your alleged disability. We accept as fact that you are a person with a physical disability. Since the ADFG receives Federal financial assistance from the Department of the Interior (hereinafter, "Department"), we reviewed your complaint under section 504 of the Rehabilitation Act of 1973, as amended, (hereinafter, "Act") and Title II of the Americans with Disabilities Act (hereinafter, "ADA").<sup>1</sup> The sole issue is whether the ADFG violated the Act or the ADA when it denied your request for an accommodation to use a crossbow.

Based on the relevant information provided, we have determined that the ADFG did not discriminate under the Act or ADA when it denied your request to use a crossbow. Since the ADFG did not violate these statutes, there are no compliance issues that require enforcement. Accordingly, the Department is dismissing your complaint. The Department's analysis is provided below.

## Analysis

A review of Alaska's hunting regulations shows that crossbows may not be used for hunting in a "restricted weapons hunt."<sup>2</sup> Additionally, it is illegal to hunt with a crossbow "for all game in archery only areas." No individual can hunt any game in a hunt or area specifically restricted to "bow and arrow use only."<sup>3</sup> However, in areas where no restrictions are placed on weapons in a hunt, with an appropriate hunting permit you are free to hunt with a crossbow.

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<sup>1</sup> The Act prohibits discrimination on the basis of disability in programs or activities receiving Federal financial assistance. The ADA prohibits discrimination on the basis of disability in programs or activities conducted by public entities whether or not they receive Federal financial assistance. As a recipient of Federal financial assistance and as a public entity, the ADFG's operations are covered by both statutes.

<sup>2</sup> "General Hunting Restrictions," *Alaska Hunting Regulations*, No. 45, July 1, 2004-June 30, 2005: 15.

<sup>3</sup> "Archery/Bow and Arrow," *Alaska Hunting Regulations*: 32.

These restrictions apply equally to members of the public. In Alaska, any person, including people with disabilities, may hunt with a crossbow under certain circumstances. Hunting with a crossbow in the State is not prohibited entirely; use of the weapon is merely restricted. Since it is illegal to use the crossbow in Alaska in a "restricted weapons hunt" and during archery season, you are not authorized to use a crossbow as requested in your complaint.

In the instant case, there is no evidence that Alaska's restrictions on the use of the crossbow discriminate against persons on the basis of disability, particularly since such use is prohibited by regulation and applies equally to members of the public. Furthermore, there is no evidence that Alaska's restrictions on the use of the crossbow deny qualified disabled persons an effective opportunity to participate in Alaska's hunting program. In Alaska, crossbows are illegal in areas restricted to hunting with bows only. However, with an appropriate hunting license, crossbows can be used where guns and bows are legal weapons. Neither the Act nor the ADA requires the State of Alaska to eliminate restrictions on the use of the crossbow as a special accommodation for people with disabilities.

The Department recognizes that States have taken different positions on providing the crossbow as an accommodation for bowhunters with disabilities. However, the Department cannot mandate that a recipient or State agency provide a crossbow as an accommodation where the crossbow is prohibited. Accordingly, since there are no compliance issues that require the Department's review, we consider your complaint to be closed. The Department will take no further action to process your request for an accommodation to use a crossbow in Alaska's hunting program.

If you disagree with the Department's decision, you may file a civil action in the appropriate U. S. District Court having jurisdiction over this matter. If you have any questions or desire any additional information regarding the nondiscrimination requirements of section 504 and Title II of the ADA, please do not hesitate to contact Melvin C. Fowler, Civil Rights Staff Assistant, of this Office at (202) 208-3455.

Sincerely,



Sharon D. Eller

Director

Office for Civil Rights

cc: Commissioner, ADFG  
Acting Chief, Division of Federal Assistance, FWS  
FWS Civil Rights Coordinator